

FILED
BILLINGS DIV.

2008 FEB 22 PM 1 33

IN THE UNITED STATES DISTRICT COURT PATRICK E. DUFFY, CLERK
FOR THE DISTRICT OF MONTANA BY _____
DEPUTY CLERK

BILLINGS DIVISION

CYNTHIA A. McINTIRE,)	CV-08-20-BLG-RFC
)	
Plaintiff,)	
)	
vs.)	
)	ORDER ADOPTING FINDINGS
)	AND RECOMMENDATION OF
MICHAEL J. ASTRUE,)	U.S. MAGISTRATE JUDGE
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

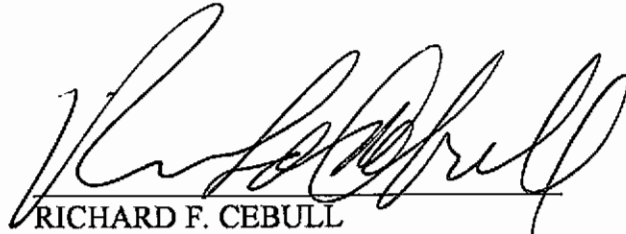
On February 19, 2008, United States Magistrate Judge Carolyn Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends Plaintiff's Application to Proceed Without Prepayment of Fees be denied. In some cases, upon service of a Magistrate Judge's findings and recommendation, a party has ten days to file written objections. *See* 28 U.S.C. § 636(b)(1). However, in the present case Plaintiff is not allowed ten days to file written objections because the Magistrate Judge's authority to make the recommendation on this pretrial matter is derived from 28 U.S.C. § 636(b)(3), which does not provide a party ten days to file written objections with the district court. *Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998).

After an extensive review of the record and applicable law, this Court finds Magistrate

Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed Without Prepayment of Fees (*Doc. #2*) is **DENIED**.

DATED the 22nd day of February, 2008.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE